

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 739 of 1999

in

SPECIAL CIVIL APPLICATION No 11020 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE C.K.BUCH

- =====
1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
STATE OF GUJARAT

Versus

DILIPSINH B RATHOD

-----  
Appearance:

MR UDAY BHATT, ASSTT.GOVERNMENT PLEADER for Appellants  
MRS KETTY A MEHTA for Respondent No. 1

-----  
CORAM : MR.JUSTICE C.K.THAKKER and  
MR.JUSTICE C.K.BUCH

Date of decision: 13/08/1999

ORAL JUDGEMENT

PER THAKKER, J.

This appeal is filed against the judgment and order passed by the learned Single Judge on February 1, 1999 in Special Civil Application No. 11020 of 1993.

Respondent-petitioner filed the above petition for appropriate writ, direction or order quashing and setting aside the the action of the respondent authorities refusing to appoint the petitioner on the post of clerk cum typist on compassionate ground.

It was the case of the petitioner that his father was serving with the State Government as an Ambulance driver in G.D. General Hospital, Visnagar. He served for more than 25 years and died leaving behind him heirs including the petitioner . The petitioner who was a Graduate in Arts and holder of a certificate in typing in Gujarat and English applied for the post of clerk on compassionate ground in April, 1991. His application was rejected.

In the petition, it was contended on behalf of the authorities that the petitioner's application could not be granted on the ground that the family income exceeded Rs. 1,000/- per month.

The learned Single Judge ,relying upon decisions of this Court in C.B. Maru vs. Dhandhuka Nagar Panchayat , 1993 (2) GLH 822 and Manubhai Godhabhai Desai vs. State of Gujarat, 1998 (1) GLH (UJ) 23,held that the contention put forward by the authorities cannot be accepted. In C.B.Maru's case, the Court considered a decision of the Supreme Court in Smt. Phoolmati vs Union of India, AIR 1991 SC 469. Learned Single Judge accordingly allowed the petition and directed the respondent authorities to decide the case of the petitioner on its own merits considering him to be eligible .

In our opinion, no error of law and/or jurisdiction can be said to have been committed by the learned Single Judge . In light of law laid down by the Supreme Court in Phoolmati as also in C.B. Maru and Manubhai Gordhanbhai Desai,a decision is taken. We see no reason to interfere with the order passed by the learned Single Judge. LPA ,therefore, deserves to be dismissed and is accordingly dismissed. No order as to costs. No order on civil application.

--

parekh

